BOROUGH OF BROOKLAWN

ORDINANCE NO. 15-25

GUARANTY ORDINANCE OF THE BOROUGH OF BROOKLAWN, COUNTY OF CAMDEN, STATE OF NEW JERSEY, FULLY, UNCONDITIONALLY AND IRREVOCABLY SECURING THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THOSE CERTAIN BOROUGH GUARANTEED LEASE REVENUE BONDS (BROOKLAWN BOARD OF EDUCATION PROJECT), SERIES 2025, IN AN AMOUNT NOT TO EXCEED $7,500,000 TO BE ISSUED BY THE CAMDEN COUNTY IMPROVEMENT AUTHORITY FOR THE PURPOSE OF PROVIDING ADDITIONAL SECURITY THEREFOR AND DETERMINING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the Board of Education of the Borough of Brooklawn in the County of Camden, New Jersey ("School District") has determined to undertake and complete a school facilities project consisting of various renovations, alterations and improvements to the Alice Costello Elementary School located in the Borough of Brooklawn, County of Camden, New Jersey ("Borough"), including, but not limited to, heating infrastructure and security improvements (collectively, the "Project"); and

WHEREAS, in January of 2024 the Educational Facilities Construction and Financing Act (*N.J.S.A.* 18A:7G-1, *et seq.*) ("EFCFA") was amended, in part, to allow a school district, including the School District, to enter into an agreement with a county improvement authority to finance the construction of a school facilities project, including the Project; and

WHEREAS, in accordance with the EFCFA, the School District is permitted to enter into an agreement with a county improvement authority, including The Camden County Improvement Authority ("Authority"), to construct the Project and to issue bonds of such county improvement authority, including the Authority, to finance such Project, with such bonds being eligible for State of New Jersey ("State") debt service aid; and

WHEREAS, in particular, pursuant to the EFCFA, the School District may lease its lands or facilities to the Authority, pursuant to a lease ("School District Lease") between the School District, as lessor, and the Authority, as lessee, who may then construct the Project on behalf of the School District; and

WHEREAS, thereafter, pursuant to the EFCFA, the Authority shall sublease the Project to the County of Camden, New Jersey ("County") pursuant to a sublease agreement ("Authority Sublease"), between the Authority, as sublessor, and the County, as sublessee; and

WHEREAS, thereafter, pursuant to the EFCFA, the County shall further sublease the Project to the School District pursuant to a sublease ("County Sublease"), between the County, as sublessor, and the School District, as sublessee, for so long as the Authority's bonds issued to finance or refinance the Project remain outstanding; and

WHEREAS, pursuant to the EFCFA, the School District's sublease payments under the County Sublease must be made in amount sufficient to pay all debt service on the Authority's bonds issued to fund the Project that remains after the application of any State debt service aid paid on such bonds; and

WHEREAS, additionally, pursuant to the EFCFA, the School District's sublease payments under the County Sublease shall be binding, full faith and credit obligations of the School District for which the full amount of such sublease payment obligations shall be included in each annual School budget adopted in every year that bonds issued by the Authority to finance or refinance the Project remain outstanding; and

WHEREAS, pursuant to the EFCFA, when the Authority's bonds issued to finance or refinance the Project are no longer outstanding, the Project shall be solely vested in the School District and each of the School District Lease, the Authority Sublease and the County Sublease shall terminate; and

WHEREAS, during the term of the School District Lease, the Authority Sublease and the County Sublease, the School District shall be responsible for the operation, maintenance, and improvement of the Project, including all costs and expenses incurred in connection therewith; and

WHEREAS, pursuant to N.J.S.A 40:37A-80, a municipality may unconditionally guaranty the punctual payment of the principal of and interest on any bonds issued by the Authority; and

WHEREAS, the County and the Authority have each agreed to finance the Project through the Authority, and for such purpose, the Authority has agreed to issue its Borough Guaranteed Lease Revenue Bonds (Brooklawn Board of Education Project), Series 2025 in an amount not to exceed $7,500,000 ("Bonds"); and

WHEREAS, the repayment of the Bonds will be secured the School District's lease payments made to the County pursuant to the County Sublease, which lease payments shall be assigned to trustee designated by the Authority at the time of issuance of the Bonds to be held in trust for the benefit of the holders of the Bonds' and

WHEREAS, due to the importance of the Project to the School District and the residents of the Borough, the Borough has determined to unconditionally and irrevocably guaranty the punctual payment of the principal of and interest on the Bonds in an amount not to exceed $7,500,000 by the adoption of this guaranty ordinance ("Borough Guaranty").

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF BROOKLAWN, IN THE COUNTY OF CAMDEN, STATE OF NEW JERSEY (not **less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

Section 1. This guaranty ordinance shall be adopted by the Borough Council of the Borough of Brooklawn, in the County of Camden, State of New Jersey in the manner provided for adoption of a bond ordinance as provided in the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.*, as amended and supplemented ("Local Bond Law"). All matters set forth in the preambles hereto are hereby incorporated into the body of this ordinance and made part hereof, as if set forth at length herein.

Section 2. Pursuant to and in accordance with the terms of the Act, N.J.S.A 40:37A-80 thereof, the Borough is hereby authorized to and hereby shall unconditionally and irrevocably guaranty the punctual payment of the principal of and interest on the Bonds, including renewals and refundings thereof, if any, in an aggregate principal amount not exceeding $7,500,000 to be issued for the purpose of financing the costs of the Project as further described in the preambles hereof, such Bonds to be dated, be in such form, mature, bear such rate or rates of interest and be otherwise as provided or established in the resolution or resolutions of the Authority authorizing the issuance of the Bonds and consistent with the provisions of the Act. Any Bonds which are no longer considered outstanding under the resolution of the Authority authorizing the issuance of the Bonds shall not be considered outstanding for the purpose of this ordinance. The full faith and credit of the Borough are hereby pledged for the full and punctual performance of its payment obligations under this ordinance. As a condition of the guaranty provided hereunder by the Borough, the School District shall, as required by applicable statute, include in its annual budget for each year the Bonds are outstanding, an amount sufficient to cover all debt service amounts due and owing on the Bonds in each such year. Furthermore the Borough shall not, aside from the obligation to guaranty payment of the principal of and interest on the Bonds, have any other obligations of any type under any lease agreement or other similar agreement entered into by the School District with the Authority and/or the County, or any other party relating in any way to the Bonds or the Project.

Section 3. Upon endorsement of Bonds referred to in Section 4 below, the Borough shall be unconditionally and irrevocably obligated to pay the principal of and interest on the Bonds in the same manner and to the same extent as in the case of obligations issued by the Borough and, accordingly, the Borough shall be unconditionally and irrevocably obligated to levy *ad valorem* taxes upon all taxable property within the Borough for the payment thereof without limitation as to rate or amount to the extent payment of the Bonds is not otherwise provided. To the extent permitted by applicable law, in the event that the instant guaranty is at any time called upon, the Borough shall be entitled to determine the order and priority of funding sources available to the Borough to effectuate the Borough's guaranty obligations hereunder, provided however that nothing set forth in this ordinance shall negate or reduce the Borough's ultimate obligation to fully, irrevocably and unconditionally guaranty the payment of principal of and interest on, the Bonds.

Section 4. The Mayor is hereby authorized and directed to execute on each of the Bonds, by manual or facsimile signature, language evidencing such guaranty by the Borough of the punctual payment of the principal of and interest thereon. The Borough Guaranty shall be in substantially the following form:

"GUARANTY OF THE BOROUGH OF BROOKLAWN, IN THE COUNTY OF CAMDEN, STATE OF NEW JERSEY

The payment of the principal of and interest on the within Bonds shall be fully, irrevocably and unconditionally guaranteed by the Borough of Brooklawn, in the County of Camden, State of New Jersey ("Borough") in accordance with the provisions of N.J.S.A 40:11A-22(e) and the guaranty ordinance of the Borough finally adopted pursuant thereto, and the Borough is fully, irrevocably and unconditionally liable for the payment, when due, of the principal of and interest on this Bond, and, if necessary, the Borough shall levy *ad valorem* taxes upon all the taxable property within the Borough without limitation as to rate or amount in order to make such payment.

IN WITNESS WHEREOF, the Borough has caused this Guaranty to be executed by the manual or facsimile signature of its mayor, all as of the date of the within Bond.

BOROUGH OF BROOKLAWN, IN THE COUNTY OF CAMDEN, STATE OF NEW JERSEY

By:____________________________
Mayor Jery D. Granstrom

Section 5. The Mayor and Chief Financial Officer are each hereby authorized to enter into, execute and deliver in the name of the Borough and on its behalf, all certificates, agreements, and documents necessary to effectuate the Borough Guaranty and issue the Bonds, including, but not limited to, a preliminary official statement, official statement, Guaranty Agreement ("Guaranty Agreement"), continuing disclosure agreement, and other items as may be necessary and setting forth such matters with respect to the guaranty authorized by this ordinance as the Mayor and Chief Financial Officer (after consultation with Bond Counsel and Counsel to the Borough) deems appropriate, and the Borough Clerk is hereby authorized to attest to the signature of the Mayor and Chief Financial Officer and to affix the seal of the Borough to the Guaranty Agreement.

Section 6. It is hereby found, determined and declared by the Borough Committee that:

(a) This guaranty ordinance may be adopted notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, but the aggregate principal amount of the Bonds which shall be entitled to the benefits of this guaranty ordinance, being an amount not to exceed $7,500,000, shall after their issuance, be included in the gross debt of the Borough for the purpose of determining the indebtedness of the Borough under or pursuant to the Local Bond Law.

(b) The principal amount of Bonds entitled to the benefits of this guaranty ordinance and included in the gross debt of the Borough shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the Local Bond Law, (i) from and after the fiscal year beginning next after the completion of the Project, and (ii) in any annual debt statement filed pursuant to the Local Bond Law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of and interest on all such guaranteed Bonds, and all obligations of the Borough issued as provided in the Local Bond Law.

Section 7. The following matters are hereby determined, declared, recited and stated.

(a) The maximum principal amount of Bonds which are hereby and hereunder guaranteed as to the punctual payment of the principal thereof and interest thereon is and the maximum estimated cost of the Project to be financed in accordance with the transaction contemplated hereby is $7,500,000.

(b) The purpose described in this guaranty ordinance is not a current expense of the Borough and no part of the cost thereof has been or shall be assessed on property specially benefited thereby.

(c) A supplemental debt statement of the Borough will be duly made and filed in the office of the Clerk of Borough, and a complete executed duplicate thereof shall be filed by such Clerk in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State, and such debt statement shows that while the gross debt of the County, as defined in the Local Bond Law, is increased by this guaranty ordinance by an amount not exceeding $7,500,000 in accordance with the provisions of the Act, the net debt of the Borough is not increased, and the obligation of the Borough authorized by or incurred pursuant to the terms of this guaranty ordinance is permitted by an exception to the debt limitations of the Local Bond Law which exception is contained in the Act.

(d) All other items to be contained in a bond ordinance adopted pursuant to the Local Bond Law are hereby determined to be inapplicable to the Borough's guaranty of the Bonds hereby.

Section 8. This guaranty and consent ordinance shall take effect upon the Authority's receipt of positive findings from the Local Finance Board regarding the issuance of bonds or project notes by the Authority.

Section 9. The Borough Clerk is hereby directed to publish, forward and post notice of this ordinance as required by law.

Section 10. Upon the adoption hereof, the Borough Clerk shall forward certified copies of this ordinance to the Bond Counsel to the Authority, Bond Counsel to the Borough, the Executive Director of the Authority and the Mayor of the Borough.

Section 11. This guaranty ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.